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August 23, 2021

Honorable Lewis Liman  
United States District Court – SDNY  
500 Pearl Street  
New York, N.Y. 10007

Re: Sheindlin v. Brady, 21 cv 01124

Dear Judge Liman,

I represent plaintiff in this defamation case.

On August 2, 2021, I filed a motion for summary judgment with, *inter alia*, a Rule 56.1 Statement setting forth the material undisputed facts in this matter. Previously, defendant had filed his own Motion for Summary Judgment which was not accompanied by any such Rule 56.1 Statement and was facially deficient. On August 14, 2021, defendant filed an opposition to plaintiff's motion for summary judgment and an untimely Rule 56.1 Statement which has no numbered paragraphs. He has filed no opposition to plaintiff's Rule 56.1 Statement as is contemplated by the Local Rule.

In October 2018, this court promulgated Local Rules which state as relevant:

"Local Civil Rule 56.1. Statements of Material Facts on Motion for Summary Judgment a) Upon any motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, there shall be annexed to the notice of motion a separate, short and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried. Failure to submit such a statement may constitute grounds for denial of the motion. (b) The papers opposing a motion for summary judgment shall include a correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party, and if necessary, additional paragraphs containing a separate, short and concise statement of additional material facts as to which it is contended that there exists a genuine issue to be tried. (c) Each numbered paragraph in the statement of material facts set forth in the statement required to be served by the moving party will be deemed to be admitted for purposes of the motion unless specifically controverted by a correspondingly

numbered paragraph in the statement required to be served by the opposing party. (d) Each statement by the movant or opponent pursuant to Rule 56.1(a) and (b), including each statement controverting any statement of material fact, must be followed by citation to evidence which would be admissible, set forth as required by Fed. R. Civ. P. 56(c)." [emphases supplied].

Plaintiff respectfully requests this Court strike Mr. Brady's motion for summary judgment as it fails to comply with the Local Rule. Specifically, he did not submit with his motion any Rule 56.1 Statement. Second, the statement he belatedly submitted fails to comply in any manner with the clear dictates of the Local Rule making it impossible for plaintiff to respond to the document defendant did submit on August 14, 2021 [which has no numbered statements as the rule requires so as to enable a response].

Plaintiff further respectfully requests that this Court deem admitted each of the undisputed material facts set forth in his Rule 56.1 Statement [filed on August 2, 2021]. Defendant has failed to timely respond in any manner, let alone as is plainly set forth in the local rule. He has not controverted this submission as the rule requires by providing a corresponding pleading responsive to plaintiff's Rule 56.1 statement and thereby has admitted the contentions advanced therein.

With regard to the substance of Mr. Brady's prolix submissions, the *Rooker-Feldman* doctrine and collateral estoppel bar the re-litigation of defendant's contentions regarding the state court proceeding in which he lost. Plaintiff and his counsel made no admissions which undermine that state court result which defines the statements plaintiff identified in his Complaint as libelous. Mr. Sheindlin is not a thief or a liar and has not corrupted any judges. Mr. Brady's contrary contentions all disregard settled state outcomes, including those on the numerous appeals he has filed.

In light of the extensive and repetitive submissions on the merits, plaintiff rests otherwise on his papers and requests that the Court apply settled rules and provide the requested relief on the now fully submitted motions.

Yours respectfully,

  
Michael H. Sussman (3497)

cc: Mr. Brady by email